APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,920	07/30/2003	Yoshimasa Masuoka	843.42990X00	7534

24956   7590   01/09/2008
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

EXAMINER
MEUCCI, MICHAEL D

ART UNIT	PAPER NUMBER
2142	

MAIL DATE	DELIVERY MODE
01/09/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)	
Office Action Summary		10/629,920	MASUOKA ET AL.	
		Examiner	Art Unit	
		Michael D. Meucci	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _11 October 2007_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _11-15_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _11-15_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _11 October 2007_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   This action is in response to the request for reconsideration filed 11 October

2007.

2.   Claims 1-10 have been cancelled.

3.   Claims 11-15 are currently pending.

Specification

4.   The specification is objected to as failing to provide proper antecedent basis for

the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction

of the following is required: The claimed "notifying that the agent is not operated to an

administrator of the information system," (claim 14) is not supported by the applicant's

original disclosure. The examiner can find no support for this limitation or for an

administrator in general in the applicant's disclosure. The applicant is reminded to not

add new matter to the disclosure.

Claim Rejections - 35 USC § 112

5.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6.   Claims 14-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to

comply with the written description requirement. The claim(s) contains subject matter

which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant's specification contains no mention of "notifying that the agent is not operated to an administrator of the information system" (see claim 14) or any mention of an administrator in general. As such, the claims are not supported by the specification and drawings and therefore fail to comply with the written description requirement.

7.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8.   Claims 11-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a.   Claim 11 contains the limitations "each first computer," "plurality of the first computers," and "one of the first computers" when only a single "first computer" is previously specified. These limitations lack antecedent basis in the claims. Correction is required.

b.   Claim 13 contains the limitation "a step of acquiring a packet transmitted on the network" which is identical to a limitation of claim 12. Applicant must delete this claim language from claim 13 to overcome antecedent basis issues. Correction is required.

c.   Claim 14 contains the limitation "an administrator" which lacks antecedent

basis in the specification. Applicant is reminded to add no new matter to the

specification. Correction is required.

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

10.   Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Balsamo et al. (U.S. 2002/0099806 A1) hereinafter referred to as Balsamo in view of

Mani (U.S. 2004/0008836 A1).

a.   Regarding claim 11, Balsamo teaches: a first step of detecting a

communication through the network between a third computer which is one of the first

computers and a fourth computer which is another one of the first computers (paragraph

[0056] on page 4-5).

Balsamo does not explicitly teach: a second step of, when the communication is

detected, communicating with the third computer to determine whether the agent is

operated on the third computer; and a third step of, when it is determined that the agent

is not operated on the third computer as a result of the determination, recording

information specifying the third computer in a storage device. However, Mani discloses:

"The location transactions comprise events that are operable to trigger the location

monitor 42 to determine the location of the agent communication device 12 and to store

corresponding location data in the agent database 28," (paragraph [0037] on page 3). It

would have been obvious for one of ordinary skill in the art at the time of the applicant's

invention to communicate with the third computer to determine whether the agent is

operated on the third computer when the communication is detected; and record

information specifying the third computer in a storage device when it is determined that

the agent is not operated on the third computer. "After detecting a location transaction

for any of the agent communication devices 12, the location monitor 42 may retrieve

location data from the location transaction or may generate location data in response to

the location transaction. For example, if a location transaction comprises a self-locating

location transaction that results in the agent communication device 12 sending a

message to the location monitor 42 identifying the location of the agent communication

device 12, the location monitor 42 may simply retrieve the location data from the

message. Alternatively, the location monitor 42 may locate the agent communication

device 12 based on any suitable locating method for wireless communication devices

and generate the location data based on the identified location of the agent

communication device 12. The location monitor 42 then stores the location data in the

agent database 28 for use by the distributor," (paragraph [0038] on page 3 of Mani). It

is for this reason that one of ordinary skill in the art at the time of the applicant's

invention would have been motivated to communicate with the third computer to

determine whether the agent is operated on the third computer when the

communication is detected; and record information specifying the third computer in a

storage device when it is determined that the agent is not operated on the third

computer in the system as taught by Balsamo.

b.   Regarding claim 12, Balsamo teaches: a step of acquiring a packet

transmitted on the network (paragraph [0056] on pages 4-5); and a step of acquiring an

address of a transmission source of the packet with reference to contents of the

acquired packet (paragraph [0056] on pages 4-5), and wherein the third step includes: a

step of recording the address of the transmission source as the information specifying

the third computer in the storage device (paragraphs [0056-0057] on pages 4-5).

c.   Regarding claim 13, Balsamo teaches: a step of acquiring a packet

transmitted on the network (paragraph [0056] on pages 4-5); and a step of acquiring an

address of a transmission destination of the packet with reference to contents of the

acquired packet (paragraphs [0056-0057] on pages 4-5).

Balsamo does not explicitly teach: wherein the second step includes: a fourth

step of, when the communication is detected, communicating with the fourth computer

and determining whether or not the agent is operated on the fourth computer, and

wherein the third step includes: a step of, when it is determined that the agent is not

operated in the fourth computer as a result of the fourth step, recording the address of

the transmission destination in the storage device. However, Mani discloses: "The

location transactions comprise events that are operable to trigger the location monitor

42 to determine the location of the agent communication device 12 and to store

corresponding location data in the agent database 28," (paragraph [0037] on page 3). It

would have been obvious for one of ordinary skill in the art at the time of the applicant's

invention to communicate with the fourth computer and determine whether or not the agent is operated on the fourth computer when the communication is detected; and recording the address of the transmission destination in the storage device when it is determined that the agent is not operated in the fourth computer. "After detecting a location transaction for any of the agent communication devices 12, the location monitor 42 may retrieve location data from the location transaction or may generate location data in response to the location transaction. For example, if a location transaction comprises a self-locating location transaction that results in the agent communication device 12 sending a message to the location monitor 42 identifying the location of the agent communication device 12, the location monitor 42 may simply retrieve the location data from the message. Alternatively, the location monitor 42 may locate the agent communication device 12 based on any suitable locating method for wireless communication devices and generate the location data based on the identified location of the agent communication device 12. The location monitor 42 then stores the location data in the agent database 28 for use by the distributor," (paragraph [0038] on page 3 of Mani). It is for this reason that one of ordinary skill in the art at the time of the applicant's invention would have been motivated to communicate with the fourth computer and determine whether or not the agent is operated on the fourth computer when the communication is detected; and recording the address of the transmission destination in the storage device when it is determined that the agent is not operated in the fourth computer in the system as taught by Balsamo.

d.   Regarding claim 14, Balsamo does not explicitly teach: a step of, when it

is determined that the agent is not operated in the third computer, notifying that the

agent is not operated to an administrator of the information system, and wherein the

fourth step includes: a step of, when it is determined that the agent is not operated in

the fourth computer, notifying that the agent is not operated to the administrator of the

information system. However, Mani discloses: "The location transactions comprise

events that are operable to trigger the location monitor 42 to determine the location of

the agent communication device 12 and to store corresponding location data in the

agent database 28," (paragraph [0037] on page 3). It would have been obvious for one

of ordinary skill in the art at the time of the applicant's invention to notify that the agent

is not operated to an administrator of the information system when it is determined that

the agent is not operated in the third or fourth computers. "After detecting a location

transaction for any of the agent communication devices 12, the location monitor 42 may

retrieve location data from the location transaction or may generate location data in

response to the location transaction. For example, if a location transaction comprises a

self-locating location transaction that results in the agent communication device 12

sending a message to the location monitor 42 identifying the location of the agent

communication device 12, the location monitor 42 may simply retrieve the location data

from the message. Alternatively, the location monitor 42 may locate the agent

communication device 12 based on any suitable locating method for wireless

communication devices and generate the location data based on the identified location

of the agent communication device 12. The location monitor 42 then stores the location

data in the agent database 28 for use by the distributor," (paragraph [0038] on page 3 of

Mani). It is for this reason that one of ordinary skill in the art at the time of the

applicant's invention would have been motivated to notify that the agent is not operated

to an administrator of the information system when it is determined that the agent is not

operated in the third or fourth computers in the system as taught by Balsamo.

   e.   Regarding claim 15, Balsamo teaches: which provides a service for

verifying whether an agent for monitoring a first computer is operated in each first

computer in an information system in which a plurality of the first computers connected

to a network are operated, and wherein the second computer is connected to the

network (paragraph [0056] on pages 4-5).

Response to Arguments

11.   Applicant's arguments filed 11 October 2007 have been fully considered but they

are not persuasive.

12.   The applicant's arguments are directed towards newly claimed subject matter

and have been addressed in the rejections above.

Conclusion

13.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

14.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Michael Meucci at (571) 272-3892. The examiner can

normally be reached on Monday-Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Andrew Caldwell, can be reached at (571) 272-3868. The fax phone

number for this Group is 571-273-8300.

Communications via Internet e-mail regarding this application, other than those

under 35 U.S.C. 132 or which otherwise require a signature, may be used by the

applicant and should be addressed to [michael.meucci@uspto.gov].

All Internet e-mail communications will be made of record in the application file.

PTO employees do not engage in Internet communications where there exists a

possibility that sensitive information could be identified or exchanged unless the record

includes a properly signed express waiver of the confidentiality requirements of 35

U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published

in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG

89.

Information regarding the status of an application may be obtained from the

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more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free).

ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER